

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JEFFREY ANTONIO BROWN,	:	
Petitioner,	:	Case No. 3:08cv00477
vs.	:	District Judge Timothy S. Black
	:	Magistrate Judge Sharon L. Ovington
WARDEN, Lebanon Correctional Institution,	:	
	:	
Respondent.	:	
	:	

AMENDED REPORT AND RECOMMENDATIONS¹

The Report and Recommendations docketed on August 30, 2011 (Doc. #49) must be amended, in part, solely as to recommendation number three on page thirty-nine to make it consistent with Report's conclusion that a certificate of appealability should not issue under 28 U.S.C. §2253. *See* Doc. #49, §VII. The Report and Recommendations otherwise remains unchanged.

Accordingly, the Report and Recommendations (Doc. #49) is incorporated herein with the exception of recommendation number three. As AMENDED herein, recommendation number three (Doc. #49, page 39) is:

¹ Attached hereto is a NOTICE to the parties regarding objections to this Amended Report and Recommendations.

“3. A certificate of appealability under 28 U.S.C. §2253 be DENIED; and”

September 2, 2011

s/Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this **AMENDED REPORT AND RECOMMENDATIONS**. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Amended Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Amended Report and Recommendations is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).